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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/965,264	09/27/2001	Gary Allen Denton	2001-0079.01	3413

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EXAMINER

BRINICH, STEPHEN M

ART UNIT	PAPER NUMBER
2624	

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/965,264	Applicant(s) DENTON ET AL.	
	Examiner Stephen M. Brinich	Art Unit 2624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☐ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 20-26 is/are allowed.
- 6) ☐ Claim(s) 1-11 and 17-19 is/are rejected.
- 7) ☐ Claim(s) 12-16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/11/05</u> . | 6) <input type="checkbox"/> Other: ____.  |

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**DETAILED ACTION**

***Claim Objections***

1. Claims 4-16 are objected to because of the following informalities:

Claim 4 contains a period in line 10.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless.-

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3-5, 7-11, & 17-19 (insofar as claims 4-5, 7-8, & 10-11 are understood) are rejected under 35 U.S.C. 102(b) as being anticipated by Budnik et al.

Re claim 1, Budnik et al discloses (column 13, line 1 - column 18, line 5; particularly column 13, lines 22-42; column 14, lines 1-4; column 15, lines 23-45 & 62-63; column 16, lines 2-9, 39-45, & 53-59; and column 17, lines 22-26 & 59-64) a calibration arrangement for an electrophotographic machine in which diagnostic tests including tests of reflectivity of an image-bearing surface are performed on the basis of various

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parameters, one of which is the amount of machine usage. The results are then used to make device adjustments.

Re claims 3-5, 7-8, & 10 (insofar as claim 4-5, 7-8, & 10 are understood), these reflectivity tests include tests of the reflectivity of a surface on which toner patches in various shades of gray has been deposited (e.g. column 16, lines 7-9) and of a clean toner-free patch (column 15, lines 62-63).

Re claim 9, Budnik et al further discloses (column 16, lines 24-26) a reflectance measurement of a toner-saturated (inherently produced by the described "high exposure setting") patch.

Re claim 11, Budnik et al further discloses (column 16, lines 39-51 the forming of toner patches under different electrophotographic conditions (e.g. horizontal and vertical pixel alignment).

Re claims 17-18, Budnik et al discloses (column 4, line 64 - column 6, line 14; particularly column 4, lines 64-66; column 5, lines 18-23; and column 6, lines 6-14) the use of an intermediate transfer belt as an image-bearing surface.

Re claim 19, Budnik et al discloses (column 15, lines 23-45) laser power as an electrophotographic condition.

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***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Budnik et al.

Re claim 2, Budnik et al does not specify the specific measurement parameter used to quantify the amount of machine usage.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use a specific measure of electrophotographic machine usage history such as page count, toner refills, or the like. The suggestion/motivation for doing so would have been to provide a specific quantifiable value for the amount of machine usage.

Therefore, it would have been obvious to use such a measure of the amount of machine usage in Budnik et al to obtain the invention as specified in claim 2.

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6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Budnik et al in view of Applicant's described Prior Art.

Re claim 6, Budnik et al describes printing in various shades of gray, and does not disclose the use of cyan, magenta, yellow, and black toner.

Applicant describes as Prior Art (page 2, line 22) the use of an electrophotographic machine that deposits cyan, magenta, yellow, and black toner.

Budnik et al and Applicant's described Prior Art are combinable because they are from the field of electrophotographic image reproduction.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use CMYK color printing in the Budnik et al electrophotographic image reproduction system. The suggestion/motivation for doing so would have been to enable the reproduction of color images.

Therefore, it would have been obvious to combine Budnik et al with Applicant's described Prior Art to obtain the invention as specified in claim 6.

***Allowable Subject Matter***

7. Claims 20-26 are allowed.

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8. Claims 12-16, insofar as they are understood, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. The following is a statement of reasons for the indication of allowable subject matter:

Re claim 12, the art of record does not teach or suggest the recited calculation of respective reflection ratio for each of several toner patches in a manner dependent upon each of the recited measuring steps.

Re claims 20 & 25 (and dependent claims 21-24 & 26), the art of record does not teach or suggest the recited determining of laser power value or developer bias value in a manner dependent upon the recited estimating step and each of the recited measuring steps.

#### **Conclusion**

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Brinich at 571-272-7430. The examiner can normally be reached on weekdays 7:00-4:30, alternate Fridays off.

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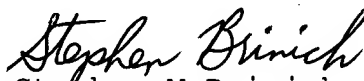
Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Tech Center 2600 Customer Service center at 571-272-2600 or to the USPTO Contact Center at 800-786-9199 or 703-308-4357.

If attempts to contact the examiner and the Customer Service Center are unsuccessful, supervisor David Moore can be contacted at 571-272-7437.

Faxes pertaining to this application should be directed to the Tech Center 2600 official fax number, which is 703-872-9306.

Hand-carried or courier-delivered correspondence pertaining to this application should be directed to

US Patent and Trademark Office  
220 South 20<sup>th</sup> Street  
Crystal Plaza Two, Lobby, Room 1B03  
Arlington VA 22202

  
Stephen M Brinich  
Examiner  
Art Unit 2624

smb  
April 27, 2005